

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOVAN SLATER,

Petitioner,

v.

SUPERINTENDANT GONYEA,  
DEPARTMENT OF CORRECTIONS AND  
COMMUNITY SUPERVISION,

Respondent.

No. 16-CV-8540 (KMK)

ORDER ADOPTING  
REPORT & RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Pro se Petitioner Jovan Slater (“Petitioner”) pled guilty in Dutchess County Court to one count of criminal sale of a controlled substance in the third degree, in violation of New York Penal Law § 220.39. (*See generally* Pet. for Writ of Habeas Corpus (“Pet.”) (Dkt. No. 1); Aff. of Kirsten A. Rappleyea, Esq. in Answer to Pet. (“Rappleyea Aff.”) Ex. A, at 11 (Dkt. No. 13-1).) Petitioner was sentenced as a second felony offender to a term of six years of incarceration with three years of post-release supervision. (Rappleyea Aff. Ex. B, at 14 (Dkt. No. 13-2).)

Following a direct appeal, the Second Department affirmed Petitioner’s guilty plea on May 31, 2016. *People v. Slater*, 35 N.Y.S.3d 452 (App. Div. 2015), *leave to appeal denied*, 28 N.Y. 3d 1031 (N.Y. 2016). Petitioner filed the instant Petition for a Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2254, seeking relief on three different grounds, most of which were pursued in state court. (*See generally* Pet.)

The case was referred to the Honorable Judith C. McCarthy (“Judge McCarthy”). (Dkt. No. 6.) On September 23, 2019, Judge McCarthy issued a Report and Recommendation

("R&R") recommending that this Court deny the Petition in its entirety. (R&R 18 (Dkt. No. 18).) Petitioner has not filed any objections to the R&R.<sup>1</sup>

When no objections are filed, the Court reviews an R&R on a dispositive motion for clear error. *See Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010); *Eisenberg v. New Eng. Motor Freight, Inc.*, 564 F. Supp. 2d 224, 226 (S.D.N.Y. 2008). The Court has reviewed the R&R and the Petition, and finding no substantive error, clear or otherwise, adopts the R&R.

Accordingly, it is hereby

ORDERED that the Report and Recommendation, dated September 23, 2019, is ADOPTED in its entirety.

ORDERED that the Petition is DISMISSED.

ORDERED that because Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, *see* 28 U.S.C. § 2253(c)(2); *Lucidore v. N.Y. State Div. of Parole*, 209 F.3d 107, 111–12 (2d Cir. 2000), and the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith. It is further

ORDERED that the Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: November 6, 2019  
White Plains, New York

  
KENNETH M. KARAS  
United States District Judge

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<sup>1</sup> Judge McCarthy provided notice that, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 8(b) of the Rules Governing Section 2254 Cases, objections to the R&R were due within 14 days from the receipt of the R&R, or 17 days from the receipt of the same if the R&R was served upon the Parties by mail, and that the failure to object would constitute a waiver of Petitioner's right to appeal. (R&R 18–19.)